

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of) MM Docket No. 95-44
)
Amendment of Section 73.202(b),) RM-8602
Table of Allotments,)
FM Broadcast Stations,)
(Fair Bluff, North Carolina))

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To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS IN SUPPORT OF NOTICE OF PROPOSED RULEMAKING

Atlantic Broadcasting Co., Inc. ("Atlantic"), by and through counsel, and pursuant to §1.415 of the Commission's Rules (47 C.F.R. §1.415), hereby submits its Comments in support of the Notice of Proposed Rulemaking, DA 95-725, released April 14, 1995 ("NPRM") in the above-captioned proceeding. In support whereof, the following is shown:

Background

1. Atlantic is the licensee of WDAR-FM, Darlington, South Carolina. WDAR-FM operates on Channel 288C3 with a directional antenna to protect the vacant allotment of Channel 287A at Fair Bluff, North Carolina.¹ If the Fair Bluff allotment is deleted, WDAR-FM will be permitted to modify its license to operate as

¹ Channel 287A at Fair Bluff has been vacant for several months. A construction permit (File No. BPH-8903132MQ) with call sign "WWIR(FM)" on the Fair Bluff channel was held by Great American Media Ltd. I. By letter dated August 31, 1994 (copy attached as Exhibit A to Atlantic's Petition), the Commission acknowledged the voluntary relinquishment of the construction permit by Great American Media Ltd. I, cancelled the construction permit and deleted the call sign WWIR. Thus, the channel is now vacant.

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an omni-directional station. In its "Petition For Rulemaking" ("Petition") filed February 8, 1995, Atlantic requested that the Commission delete the vacant allotment on Channel 287A at Fair Bluff, North Carolina, or, in the alternative, that a 13 kilometer east site restriction be imposed on Fair Bluff Channel 287A. Atlantic has already prepared and filed an application to modify the facilities of WDAR-FM to operate with a non-directional antenna which is currently pending. See File No. BPH-950224ID. As demonstrated in the Engineering Statement included as Exhibit B to Atlantic's Petition (and incorporated herein by reference), the vacant allotment of Channel 287A at Fair Bluff, North Carolina, is the sole impediment to a grant of the WDAR-FM modification application.

2. In the NPRM, the Commission found that: "the public interest would be served by seeking comments on the proposed deletion or site restriction of Channel 287A at Fair Bluff...." NPRM at ¶3. The Commission acknowledged that deleting the Fair Bluff allotment or imposing a site restriction would permit WDAR-FM to expand its coverage area. In addition, the Commission noted that deletion of Channel 287A at Fair Bluff would not deprive the community of radio service, since it is presently served by WJHB(AM). NPRM at ¶2. However, the Commission stated that it would not delete Channel 287A at Fair Bluff if there was a timely-filed expression of interest in the vacant allotment.

The Public Interest Would Be Served By Deleting Channel 287A At Fair Bluff Or Imposing A Site Restriction

3. Atlantic has amply demonstrated that the public interest would be served by either the deletion of Channel 287A at Fair Bluff or by the imposition of a site restriction. The allotment has been vacant since August, 1994. The deletion of

Channel 287A will permit WDAR-RM to provide enhanced service to the community of Darlington, South Carolina. Should a timely expression of interest be made in the vacant Fair Bluff allotment, the Commission can accommodate both that expression and Atlantic's proposal by imposing a 13 kilometer east site restriction on Fair Bluff Channel 287A at the following coordinates: **34-21-22 North Latitude and 78-54-36 West Longitude**. As demonstrated in the Engineering Statement included with Atlantic's Petition, this site restriction will permit WDAR-FM to operate as an omnidirectional station and would meet all allocation provisions of §73.207 of the Rules and would provide 100% of Fair Bluff with city-grade service. See NPRM at §2.² If no expression of interest is filed, then the Commission should simply delete Channel 287A at Fair Bluff.

Conclusion

4. Atlantic has demonstrated that a grant of its Petition For Rulemaking would serve the public interest. Enhanced service to the community of Darlington, South Carolina, will result if the Commission deletes the vacant allotment of Channel 287A at Fair Bluff, North Carolina. Should an outside party file an expression of interest in Channel 287A, Atlantic has demonstrated that the Commission can still grant

² The Commission noted that the site restriction coordinates requested by Atlantic (34-21-22 North Latitude and 78-54-36 West Longitude), are short-spaced to Station WYNA, Channel 285A, Tabor City, North Carolina and WNMB, Channel 288A, North Myrtle Beach, South Carolina. However, both Stations have proposed changes to their facilities that would eliminate the short-spacings to Atlantic's rulemaking proposal. Station WYNA has been modified to specify operation on Channel 285C3 in MM Docket No. 93-249 and Station WNMB's license has been modified to Channel 290C3 in MM Docket No. 89-326.

Atlantic's proposed by imposing a 13 kilometer east site restriction for Channel 287A at Fair Bluff.

WHEREFORE, the above-premises considered, Atlantic Broadcasting Co., Inc. respectfully requests that the Commission make the following changes to the FM Table of Allotments:

<u>City</u>	<u>Channel No.</u>	<u>Present</u>	<u>Proposed</u>
Fair Bluff, North Carolina	287A	---	

In addition, Atlantic respectfully requests that the Commission grant its pending application to modify of the license for WDAR-FM, Darlington, South Carolina, in order to permit the station to operate as an omni-directional station. Should the Commission grant Atlantic's rulemaking proposal and subsequently grant its application for modification of license, Atlantic will promptly make the necessary changes to WDAR-FM in order to begin operating as a omni-directional station.

Respectfully submitted,

ATLANTIC BROADCASTING CO., INC.

By: 

Arthur V. Belendiuk
Shaun A. Maher

Its Attorney

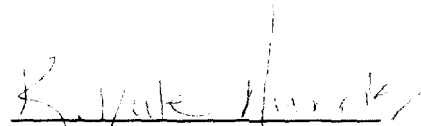
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June 5, 1995

CERTIFICATE OF SERVICE

I, K. Dale Harris, a legal assistant in the law firm of Smithwick & Belendiuk, P.C., certify that on this 5th day of June 1995, copies of the foregoing were hand delivered, to the following:

Ms. Leslie K. Shapiro
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K. Dale Harris